



State of New Jersey
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BULLETIN NO. 97- 01

TO: ALL INSURANCE COMPANIES SUBJECT TO THE NEW JERSEY
FRAUD PREVENTION ACT, N.J.S.A. 17:33A-1 ET SEQ.

FROM: ELIZABETH RANDALL, COMMISSIONER

RE: WITHHOLDING OF PREMIUMS PAID AS DAMAGES WITH RESPECT TO
A FRAUDULENT CLAIM

The Department of Banking and Insurance ("Department") is issuing this Bulletin to advise insurance companies subject to the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq. (the "Act") regarding damages with respect to fraudulent claims.

The Act, which became effective November 28, 1983, is intended to address the problem of insurance fraud in New Jersey by facilitating the prevention of insurance fraud, eliminating the occurrence of such fraud through development of fraud prevention programs, requiring the restitution of fraudulently obtained insurance benefits, and reducing the amount of premium dollars used to pay for fraudulent claims. The Act applies to any "insurance company," as that term is defined at N.J.S.A. 17:33A-3. The Act, at N.J.S.A. 17:33A-4, sets forth specific actions that constitute a violation of the Act. The Act further provides, at N.J.S.A. 17:33A-7a, that any insurance company damaged as a result of a violation of any provision of the Act may sue therefor in any court of competent jurisdiction to recover compensatory damages, which may include reasonable investigation expenses, costs of suit and attorney's fees.

It has come to the Department's attention that there may be confusion whether an insurance company may withhold premiums as a means of recovering expenses, costs or fees incurred in connection with a fraudulent claim or fraudulently obtained insurance policy. The Department hereby advises all insurance companies subject to the Act that an insurance company may not withhold premium payments made with respect to a fraudulently obtained insurance policy or otherwise seek monetary considerations as damages except as provided in the law. In accordance with N.J.S.A. 17:33A-7a, an insurance company must

bring a lawsuit to seek compensatory damages, including, but not limited to, the retention of premium payments made regarding a fraudulent claim or fraudulently obtained insurance policy.

1/8/97

Date

A handwritten signature in dark ink, appearing to read 'Elizabeth Randall', written over a horizontal line.

Elizabeth Randall
Commissioner

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